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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/509,681	03/30/2000	Hans Berg Andreassen		3146

7590 05/19/2004

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EXAMINER

OH, SIMON J

ART UNIT PAPER NUMBER

1615

DATE MAILED: 05/19/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/509,681

Applicant(s)

ANDREASEN ET AL.

Examiner

Simon J. Oh

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
 - If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
 - If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
 - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 03 March 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-33 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-33 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

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DETAILED ACTION

Papers Received

Receipt is acknowledged of the applicant's request for continued examination, petition for extension of time, amendment, response, terminal disclaimer, and information disclosure statement, all received on 03 March 2004.

Information Disclosure Statement

The information disclosure statement (IDS) submitted on 03 March 2004 has been received in the application. The submission is in compliance with the provisions of 37 CFR 1.97. Accordingly, the examiner has considered the information disclosure statement.

Claim Rejections - 35 USC § 101 and 112

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

The rejection of Claims 31-33 under 35 U.S.C. 101 and 112, second paragraph, is hereby withdrawn.

Claim Rejections - 35 USC § 103

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

The rejection of Claims 1-33 under 35 U.S.C. 103(a) over Usher *et al.* is maintained.

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The rejection of Claims 8, 14, and 27 under 35 U.S.C. 103(a) over Usher *et al.* and Mioduszewski *et al.* is maintained.

Double Patenting

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

The rejection of Claims 9, 11, 16, 17, and 19-23 under 35 U.S.C. 101 as claiming the same invention as that of Claims 17-24, and 26 in Application No. 10/300,032 is withdrawn in view of the abandonment of the '032 application.

The provisional rejection of Claims 1-8, 10, 12-15, and 18 under the judicially created doctrine of obviousness-type double patenting as being unpatentable over Claims 18-23 and 25 in co-pending Application No. 10/300,032 is withdrawn in view of the abandonment of the '032 application.

The rejection of Claims 1-16 under the judicially created doctrine of obviousness-type double patenting as being unpatentable over Claims 1-18 of U.S. Patent No. 6,291,440 is withdrawn in view of the terminal disclaimer filed 03 March 2004.

Response to Arguments

Applicant's arguments filed 03 March 2004 have been fully considered but they are not persuasive.

Regarding the applicant's arguments concerning the prior art rejections of record, it is the position of the examiner that the applicant's arguments require a narrow interpretation of both

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the claims and the prior art. It is the position of the examiner that one of ordinary skill in the art, giving both the prior art and the claims in their present form their broadest reasonable interpretation, would find the claimed invention obvious in view of the prior art. See MPEP § 2111 and 2123.

The applicant has mentioned a signed statement by a Professor Klaus Bock in order to set forth a more persuasive argument. However, no such record of a statement currently exists in the case. As the statement is absent from the case, the examiner will reiterate the position previously set forth that the methods of the prior art sufficiently read on the instantly claimed invention, and that one of ordinary skill in the art, guided by the disclosure of the prior art, would be able to arrive at the present invention with a reasonable expectation of success.

Correspondence

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Simon J. Oh whose telephone number is (571) 272-0599. The examiner can normally be reached on M-F 8:30 am to 5:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thurman K Page can be reached on (571) 272-0602. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Simon J. Oh
Examiner
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sj0

THURMAN K. PAGE
SUPERVISORY PATENT EXAMINER
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